

### REMARKS

Claims 1-80 remain in the application. Claims 46-77 and 80 are withdrawn as directed to the non-elected invention. Claims 1-45, 78 and 79 are under active consideration.

Claims 1, 2-3, 5-16, 20-21, 24-29, 34, 38, 42, 44-45, and 78-79 have now been amended. Applicants respectfully assert that all amendments are supported by the original disclosure and do not introduce new matter. Moreover, Applicants further respectfully assert that the amendments merely clarify the scope of the claims.

#### *Claim Objections*

The Examiner has objected to claims 16-22, and 78 as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. Applicants have now amended claims 16-22, and 78 to set the claims in the alternative only.

The Examiner has objected to claim 29 as being a substantial duplicate of claim 15. Claim 29 has now been amended to more clearly set forth the invention of the present application.

#### *Claim Rejections - 35 USC § 112*

The Examiner has rejected claim 11 under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for certain bactericides, does not reasonably provide enablement for "any bactericide having a bactericidal potency and host spectrum substantially equivalent to hydrogen peroxide." Claim 11 has now been amended.

The Examiner has rejected claim 12 under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for EDTA, does not reasonably provide enablement for any agent which enhances the dislodging of a biofilm. Claim 12 has now been amended to provide for a chaotropic agent or a calcium chelator.

The Examiner has rejected claim 3 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 3 has now been amended.

The Examiner has rejected claim 5 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5 has now been amended.

The Examiner has rejected claim 6 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what constitutes "ammonium acid glyconate, sodium acid glyconate, lithium acid glyconate" or "potassium acid glyconate." Claim 6 has now been amended to remove these incorrect materials.

The Examiner has rejected claims 15, 24, 25-29 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention stating it is unclear whether the composition includes 300 liters of water, or not. The claims have now been amended to clearly recite an aqueous solution.

The Examiner has rejected claims 30- 41 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims have now been amended to clearly recite an aqueous solution.

The Examiner has rejected claim 79 for reciting the limitation "the step" in line 2. Claim 79 has now been amended.

*Claim Rejections - 35 USC § 102*

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by JP2000- 063894 to Toru as evidenced by "glyconic acid definition". Claims 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Toru.

The Toru reference discloses a detergent composition for automatic dishwashers, which is based on a high-alkaline, sodium hydroxide solution or the like, the pH of which is 9-11 in a 1 wt.% aqueous solution. The compositions described in the Toru reference could not be used in the present invention since such caustic agents would be a health hazard.

An example of the composition is given that includes the ingredients sodium metasilicate, sodium carbonate, sodium gluconate and sodium sulfate (as the balance). It will be evident that the compositions as disclosed and claimed in the present application are different from the detergent compositions of Toru, since the latter compositions are unsuitable for treating water in hot tubs and swimming pools and the like, which is the main use of the compositions of the present invention.

In contrast to the teaching of Toru, the present invention is based on the synergistic activity of the ingredients of the compositions disclosed and claimed, as evidenced by available test results. The compositions of the present invention cause the biofilm to be treated to "open" and make itself available for destruction by the composition and/or other biocides.

Claim 1 has now been amended to define the composition as comprising the ingredient "one or more sulphate" as including potassium aluminium sulphate. The basis for this amendment can be found throughout the specification as originally filed.

For all of the reasons stated above, the applicants believe that the Toru reference does not anticipate or suggest the compositions and methods of the present invention.

#### *Claim Rejections - 35 USC § 103*

Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toru as evidenced by the dictionary definition of glyconic acid and in view of U.S. Patent No. 5,707,534 to Del Corral et al. ("Del Corral").

Claims 3, 8, 9, 11, 14 and 79 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toru as evidenced by the dictionary definition of glyconic acid and the green chelate reference in view of U.S. Patent Application Publication No. 2002/0016278 to Barbeau et al. ("Barbeau").

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toru as evidenced by the dictionary definition of glyconic acid and in view of U.S. Patent No. 4,747,978 to Loehr et al ("Loehr").

Claims 15, and 24-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toru as evidenced by the dictionary definition of glyconate in view of Loehr and Del Corral.

In addition, while Toru provides compositions that might contain metasilicate, sodium carbonate, sodium bicarbonate (an inorganic salt) sodium glyconate, Toru does not teach the use of potassium aluminum sulfate. Nor does Toru teach the specific amounts of each of these compounds as claimed.

The Toru reference actually teaches away from the present invention since no one would be motivated to add a highly caustic dishwashing detergent agent to their bath or pool water.

As to the use of potassium aluminum sulfate, Loehr is directed to a water treating composition and includes potassium aluminum sulfate in the composition because it is a flocculent which helps to minimize turbidity and improve the clarity of the water. The potassium aluminum sulfate taught in the Loehr reference only suggest amounts to control the amount of solids which settle out. The Loehr reference does not teach or suggest the use of potassium aluminum sulfate in removing a biofilm, which is the opposite effect of having materials settle out of solution.

The Del Corral reference merely discusses a composition used to treat water in which the composition is incorporated into a salt carrier matrix.

For all of the reasons stated above, the applicants believe that the Toru reference does not anticipate or suggest the present invention either alone or in combination with the Loehr or Del Corral references.

### ***Conclusion***

Applicants' undersigned attorney has made a good faith effort to be responsive to the restriction requirement made in the Office Action dated February 4, 2010. If the Examiner would like to discuss the restriction requirement or to have Applicants provide any clarification

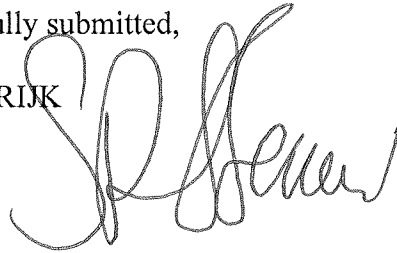
Application Serial No. 10/596,095  
Amendment dated February 14, 2011  
Reply to Official Action of August 12, 2010

of its terms, he is invited to contact Applicants' undersigned attorney at the phone number given below.

The Commissioner for Patents is hereby authorized to charge any deficiency or credit any overpayment of fees to Frost Brown Todd LLC Deposit Account No. 06-2226.

Respectfully submitted,

JAN DE RIJK



By

\_\_\_\_\_  
Stephen R. Albainy-Jenei  
Registration No. 41,487  
Attorney for Applicant(s)  
FROST BROWN TODD LLC  
2200 PNC Center  
201 East Fifth Street  
Cincinnati, Ohio 45202  
(513) 651-6839  
salbainyjenei@fbtlaw.com